

View of the Carson Valley

## Introduction



The question of how to best manage growth has been a major issue in Douglas County since 1996, when the Growth Management Chapter (20.500) was adopted in Douglas County Code. Since that time, several growth management programs have been put in place to protect the rural lifestyle enjoyed in the Carson Valley and Topaz communities, including the adoption of the Building Permit Allocation and Growth

Management Ordinance, establishment of Urban Growth Boundaries, adoption of adequate public facility provisions in both Douglas County Code and the Douglas County Design Criteria and Improvement Standards, and development of a Transfer Development Rights (TDR) Program. Other important growth management tools, such as an Open Space Acquisition Program, have yet to be implemented. The purpose of this Element is to review existing growth management strategies being used in Douglas County, identify issues, and provide goals, policies, and actions for improving them.

For information on growth management tools implemented by the Tahoe Regional Planning Agency (TRPA) in the Lake Tahoe Basin, refer to the Tahoe Regional Plan in the Land Use Element.

### **Growth Management Programs**

## Building Permit Allocation and Growth Management Ordinance

In November 2002, Douglas County voters passed ballot Question 4, also known as the Sustainable Growth Initiative (SGI). This initiative was intended to limit residential growth to 280 new units per year, outside of the TRPA jurisdiction, in order to control growth, protect water resources, and support the rural lifestyle of Douglas County. It became the subject of several different court cases, however, and was never put in force. In response to the initiative, the County and the SGI supporters worked together for over one year to develop an acceptable growth management program. As a result, in June of 2007 the SGI was officially repealed and replaced with the Building Permit Allocation and Growth Management Ordinance (ref. Ordinance 2007-1199), which limits residential growth and requires building permit allocations.

The Building Permit Allocation and Growth Management Ordinance (refer to Chapter 20.560 in Douglas County Code) became effective on July 1, 2007, and was approved by the voters in the form of an advisory question during the general election of November 2008. The number of allocations for each year is based off of the 2000 Census population. The Douglas County 2000 Census population, outside of the jurisdiction of

the TRPA, was 34,520 people. The number of allocations is compounded annually at a rate of 2 percent for the 50 year planning period resulting in a total of 26,812 allocations.

# Vested Projects

In 2007-2008, the Board of Commissioners approved a List of Vested Projects, projects that were approved prior to the adoption of the Building Permit Allocation and Growth Management Ordinance and that are exempt from the allocation provisions (refer to Resolution No. 2007R-054 and Resolution No. 2008R-082). On the effective date of the Ordinance, July 1, 2007, there were 4,773 allocations set aside for vested projects. As of September 2011, the County had issued 91 of the 4,773 allocations set aside for vested projects. A number of projects have also expired since 2007 and are therefore no longer "vested." As a result, only 4,079 of the allocations set aside are still needed for vested projects.

#### Administrative Procedures

Since the adoption of the Building Permit Allocation and Growth Management Ordinance in July 2007, the Board has adopted the following two amendments to the administrative procedures of the ordinance:

- 1) Ordinance No. 2008-1235. On January 3, 2008, the Board approved an ordinance allowing for vested projects tied to development agreements that are extended to remain exempt and to exempt dwelling units on certain agricultural parcels from the allocation provisions.
- 2) Ordinance No. 2009-1278. On March 5, 2009, in response to the reduced demand for allocations and the subsequent availability of excess allocations, the Board approved an ordinance allowing for allocations to be requested and issued on a first-come, first-served basis, outside of the quarterly distribution time, when there are excess allocations available.

During a review of the Ordinance in 2011, the Planning Commission and Board of Commissioners recommended no changes to the ordinance.

Growth of Population and Number of Allocations Used

The Douglas County 2010 Census population, outside of the jurisdiction of the TRPA, was 41,762 people. From 2000 to 2010, the population increased by 7,242 people (41,762 - 34,520 = 7,242). Thus, the population increased by 20.98 percent over 10 years and the average annual rate of growth was approximately 1.92 percent, which is very close to the adopted growth rate of 2 percent. If a 2 percent compounded growth rate was applied



to the 2000 Census population, the population in 2010 would have been 42,080 people. Thus, the projected population was just slightly higher than the actual population determined by the 2010 Census. Figure 6.1 includes the number of allocations available and number of allocations issued from FY 2007-08 to 2010-11:

Figure 6.1 Number of Allocations Issued by Year (FY 07/08 to 10/11)

FY Year	Total Allocations Available	<b>Vested Projects</b>	Number of Allocations Issued
2007-08	317	149	77
2008-09	323	151	28
2009-10	330	155	16
2010-11	336	158	12

Based on the figures above, the number of allocations available is much higher than the number of allocations being issued. As of July 1, 2011, the County had 560 excess allocations available. This is reflective of the downturn in the housing market and reduction in the number of residential building permits being issued.

Modification to the Number of Allocations or 2 Percent Growth Rate

Any modification in the total number of allocations or a modification in the 2 percent growth rate must be placed on the ballot by the county for an advisory vote prior to any modification.

Banking and Borrowing for Large Residential Projects

Under the Building Permit Allocation and Growth Management Ordinance, a "banking and borrowing" system was created so that large projects that require more building permit allocations than are available in a given year would be allowed to proceed based on the banking of current allocations and the borrowing of future allocations. The number of allocations allowed to be taken through "banking and borrowing" is limited to no more than 40 percent of the total "allocations available to distribute" in any given year. As of 2011, this system had yet to be used.

# Planned Development Overlay District

The Planned Development (PD) Overlay District allows increased residential density in a large scale development, while setting aside at least 25 percent of a site as open space to be improved in a park like setting with active recreational areas or to set aside areas considered to be environmentally sensitive, such as meadows, wetlands, perennial springs or streams and major drainage ways, or historical or archeological sites. While planned developments do not control growth, they do concentrate development outside of areas which are not considered conducive to development and are considered to be a more

environmentally friendly type of development. Planned developments are currently allowed with a zoning map amendment under County Code in all the zoning districts.

# Adequate Public Facilities/Minimum Development Standards

Following the adoption of the 1996 Master Plan, Douglas County Code, Chapter 20.100, Public Facilities and Improvement Standards, and the Douglas County Design Criteria and Improvement Standards (DCDCIS) manual were developed and adopted to require "adequate public facilities" with new development and design standards for the design, construction, repair, and alteration of streets, roadways, alleys, drainage, grading, sewers, water supply facilities and all appurtenances thereto within Douglas County. In order to adequately control growth, urban improvements, such as sewer, water, and sidewalks, are required within Urban Service Areas, whereas rural improvements are required in rural areas identified in the Land Use Element.

## <u>Urban Service Areas</u>

Higher density residential development and intense retail and office development are located within Urban Service Areas. Outside of Urban Service Areas, such urban development is discouraged. Urban Service Areas help to maintain urban edges, foster compact urban form, and preserve rural character. Generally, they are areas that are intended to have a full complement of urban services, including public water and sewer, sidewalks, parks, schools, bike paths, walking trails, landscaping, fire protection services, and paved streets. Urban Service Areas are within the Agriculture, Airport, Gardnerville Ranchos, Genoa, Indian Hills/Jacks Valley, and Minden/Gardnerville Community Plans. Other communities may become Urban Service Areas over time as critical infrastructure components are provided.

Map 6.1 displays the Urban Service Area Boundaries in Douglas County.

The Land Use Element recommends that urban growth occur only in Urban Service Areas and areas with densities of one unit per acre or greater. Areas outside Urban Service Areas should not be zoned for urban residential densities, and the Capital Improvement Program should not include urban facilities for those areas. The Urban Service Areas include infill sites and Receiving Areas.

Receiving Areas are designated on the Land Use Map and are adjacent to areas with urban density and existing public utilities. They are currently not zoned for urban-sized lots and are not platted for urban densities. They have been identified as available for development at the same density or other compatible density which exists in the adjacent urban area. In order to achieve this density, however, development rights must be transferred to the Receiving Area through the transfer of development rights (TDR). Owners of land within Receiving Areas retain the right to develop their land at the density allowed by the existing zoning without the use of TDRs.

395 Douglas County Urban Service Areas
- With Transportation Classifications -Map Elements Urban Service Areas Town Boundaries Regional Plan Areas Parcels

Map 6.1 Carson Valley Urban Service Area Boundaries

# Receiving Areas/Transfer of Development Rights Program

The Douglas County Development Code allows the transfer of development rights (TDRs) from property zoned A-19 or FR-19 (sending parcels) to property designated as Receiving Area on the Future Land Use Map. Each right is equivalent to a dwelling unit. The program is voluntary and requires agreement between property owners of sending parcels and receiving parcels. TDRs allow the owners of the sending property to retain ownership and continue to use the property consistent with a conservation easement. Thus, the TDR Program provides an opportunity for property owners to sell development rights and continue using their land for agriculture and open space.

At the time the 2000 Open Space Plan was written, County Code granted only two TDRs per 19-acre parcel. The TDR Program was not working well to preserve agricultural land, and the reason was that with TDRs being so scarce, they were expensive. Developers were not willing to pay what the landowners were willing to accept for their development rights. The TDR Program was amended in 2001 to provide more development rights per 19-acre parcel. Under current regulations (Chapter 20.500), an A-19 parcel is worth one development right plus:

- Nine bonus rights for participating in the program;
- Seven bonus rights if at least 50 percent is located in the FEMA 100-year floodplain;
- Seven bonus rights if all water rights are restricted;
- One bonus right for dedication of public access; and
- Twenty bonus rights for every 100 acres when the sending parcel or contiguous parcels are at least 100 acres.

All in all, this works out to a maximum of 25 development rights per 19-acre agricultural parcel, with potentially more for parcels or contiguous parcels over 100 acres.

A FR-19 parcel is worth one development right plus:

- One bonus right if at least 50 percent is located in the FEMA 100-year floodplain;
- One bonus right for dedication of public access easements; and
- One bonus for every 100 acres when sending parcel or contiguous parcels are a minimum of 100 acres.

All in all, this works out to a maximum possible of three development rights per 19-acre forest and range parcel, with potentially more for parcels or contiguous parcels over 100 acres.

Prices for development rights are established by the buyer and seller of those rights without interference by the County.

A detailed breakdown of TDR activity since 2002 is provided below in Figure 6.2. As one can see, 4,003 acres have been set aside in conservation easements in the Carson Valley as a result of the program.

Figure 6.2
Transfer Development Rights Activity 2002 to 2009

Year	# of TDR's	# of TDR's	# of TDR's	Acreage Deed
	Certified	Transferred	Remaining	Restricted
2002	1,262	1,185	77	2,177.00
2003	663	663	0	461.64
2004	0	0	0	0.00
2005	1,447	1,445	2	989.26
2006	0	0	0	0.00
2007	146	146	0	100.00
2008	205	138	67	140.72
2009	198	138	60	135.05
Total	3,921	3,715	206	4,003.67

# Open Space Acquisition Program



The first Open Space Plan was adopted in 2000 in order to allow the County to place an open space funding ballot question in front of the voters in the November 2000 general election. Nevada Revised States (NRS) Section 376A.020 mandates that an open space plan be adopted prior to a county placing an open space funding measure before the voters. NRS also permits jurisdictions to levy a quarter cent sales tax for this purpose, such a measure has been adopted in Carson City. While the 2000 ballot question failed, finding a way to fund an Open Space Acquisition Program, which could allow for the outright purchase of the land or to compensate landowners for

conservation easements and still allow them to retain ownership and use of their lands, continues to be a priority of the County and many of its residents.

An updated Open Space and Agricultural Lands Preservation Plan was adopted in October 2007. It identifies a number of preservation strategies, including the adoption of a Purchase Development Rights (PDR) program, in order to maintain rural character, protect view sheds and scenic vistas, preserve agricultural lands, preserve sensitive environmental features, protect the floodplain, maintain urban edges, limit the expansion of public facilities, and reduce the pressure on the county's groundwater resources. The 2007 Open Space Plan recognizes that a PDR program could be implemented and administrated by the County or through a non-profit, such as a land trust or conservancy.

Since the adoption of the Open Space Plan, the County has continued to pursue grant

funding to preserve open space. For example, Nevada Division of State Lands Question 1 (Q-1) grant funding was secured to purchase open space along the Martin Slough in the Town of Minden in order to develop a linear park and for flood control purposes. In addition, the County has been working to develop comprehensive federal legislation (Lands Bill) that would enable the preservation of historic ranching,



riparian lands, wildlife habitat, open space, and natural resources through the proceeds raised from the sale of U.S. Forest Service and Bureau of Land Management (BLM) lands determined no longer useful in Douglas County. The County will continue to work to secure federal, state, and private funding to purchase open space and establish conservation easements, as part of the overall growth management strategy for the County.

The 2007 Open Space Plan recognizes the need for having a process or system to objectively prioritize properties for preservation. The Open Space Plan recommends the following factors be considered:

- Whether the land is agriculturally productive.
- Current level of threat from development.
- Floodplain status.
- Presence of wetlands or riparian wildlife habitat.
- Agricultural character and scenic values.
- Landowners' willingness to allow recreation access on the property.
- Whether the land is of sufficient size to support a successful agricultural operation.
- Presence of important cultural, archeological, or historic values.
- Whether the land is in a wellhead protection area.

The 2007 Open Space Plan also recommends that the County look at adopting a program for prioritizing properties for preservation, such as the Land Evaluation and Site Assessment (LESA) developed by the U.S. Department of Agriculture (USDA). The LESA is a technical framework to numerically rank land based on local resource valuation and site conditions. Refer to the 2007 Open Space Plan for additional information.

#### **Issues**

#### Excess Allocations

The Building Permit Allocation and Growth Management Ordinance was not put into place until the housing market began to decline and, as a result, the number of available allocations have yet to be utilized. Therefore, the number of allocations available are more than sufficient to meet the current and the foreseeable future demand.

### Open Space Acquisition Program

The County has yet to fund and implement an Open Space Acquisition Program, which has been recognized for years as a fundamental growth management strategy, in that it would help to protect agricultural lands, floodplains, wildlife habitat, and scenic vistas. It is also a program that would help the County achieve many of the goals and policies in the 2007 Open Space Plan and in the Agriculture, Environmental Resources and Conservation, and Land Use Elements of the Master Plan.

### Urban Service Areas and Water and Wastewater Service Areas

One of the conflicts in the Master Plan is that the Urban Service Area boundaries established in the Carson Valley Regional Plan do not correspond with the Water and Wastewater Service Area Maps (refer to the Public Services and Facilities Element). One of the issues with extending roads, water, and sewer facilities outside of Urban Service Areas is that it increases development pressure outside of Urban Service Area boundaries. When development occurs outside of Urban Service Area boundaries, it increases the cost to provide and maintain public services and facilities. However, it is important to recognize that the inconsistent boundaries are a result of the County having to extend sewer and water lines to address public health and safety issues.

### Transfer Development Rights Program

In mid 2007, as part of the review of the Building Permit Allocation and Growth Management Ordinance, the Board directed staff to consider modifications to the TDR program to help in creating additional incentives for the program to succeed in preserving agricultural lands. For example, the 2007 Open Space Plan recognized that, although it is not currently allowed, TDRs could also be used as a tool to assist in mitigating hillside and floodplain development by allowing owners to transfer development rights from environmentally sensitive lots (not zoned A-19 or FR-19) to one better suited for building.

Another issue with the TDR program that has been raised is that the Master Plan prohibits the transfer of TDRs between the Carson Valley and Topaz watersheds. As of 2011, all of the 4,003 acres set aside in conservation easements under the TDR program were located in the Carson Valley; there were none established in Topaz. There is

currently a 1,322-acre site designated Receiving Area on the Land Use Map for the Topaz Ranch Estates/Holbrook Junction Community Plan. Until the site is developed, there will be no conservation easements established under the TDR program in Topaz. In addition, since the majority of eligible conservation lands in the Topaz watershed is significantly less than the Carson Valley, the amount of development rights available to support the existing Receiving Area south of Highway 208 is limited.

If the Master Plan was amended to allow the transfer of TDRs between the Carson Valley and Topaz watershed basins, it could help to facilitate the conservation of open space through the TDR program on properties with A-19 and FR-19 zoning and along the Walker River floodplain in Topaz. If TDRs were transferred from Topaz to the Carson Valley, TDRs from the Carson Valley would need to be transferred back to Topaz in order to develop the Receiving Area to a density higher than what is currently allowed. This issue should be further evaluated when staff reviews changes to the TDR program.

# Growth Management (GM) Goals, Policies, and Actions

- GM Goal 1 To keep growth in Douglas County to a sustainable level that natural and fiscal resources can support.
- GM Policy 1.1 Douglas County shall continue to implement the Building Permit Allocation and Growth Management Ordinance and report on the status on an annual basis, as well as every five years.
- GM Action 1.1 Douglas County shall develop key indicators to monitor the impacts of growth, as well as progress being made towards implementing the County's growth management programs, and report on them on an annual basis.
- GM Goal 2 To direct new development to locations within or adjacent to existing communities where public services and facilities can be provided and a sense of community can be created or enhanced.
- GM Policy 2.1 Douglas County shall use the Land Use Element of this Master Plan to designate areas for distinct urban and rural communities. The designated development areas of these communities shall not include land which cannot be served with adequate services and facilities during the time frame of the Master Plan.
- GM Policy 2.2 Douglas County shall limit extension of urban levels of public services outside identified Urban Service Areas identified on the Land Use Map, except in cases where said extension is necessary for the provision of public health and safety.
- GM Policy 2.3 Douglas County shall manage the appropriate timing and location of development to achieve the County's goals related to natural resources, community character, and provision of public services and facilities.
- GM Policy 2.4 Douglas County shall ensure that projects proposed in the Capital Improvement Program are consistent with the goals and policies in the Growth Management Element of the Master Plan.
- GM Policy 2.5 Douglas County shall support annexations to unincorporated towns or to the service areas of providers (such as GIDs) that are compatible with the Master Plan's identified Urban Service Areas.
- GM Action 2.1: The Community Development Department will provide input during the preparation of the annual CIP to insure consistency with the Master Plan and the Growth Management Chapter of the Douglas County Development Code.

- GM Goal 3: To continue to work to secure federal, state, and private funding to purchase open space and establish conservation easements, and establish an Open Space Acquisition Program.
- GM Action 3.1: Douglas County shall examine the feasibility of developing and/or working with an existing land trust or conservancy to implement and facilitate an Open Space Acquisition Program.
- GM Action 3.2: Douglas County shall analyze the effectiveness of the Transfer Development Rights Program and prepare recommendations.